

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.	:	10/607,746	Confirmation No.	7593
Applicant	:	PANTELLERIA, Joseph A.		
Filing Date	:	June 27, 2003		
TC/A.U.	:	3727		
Examiner	:	MAI, Tri M.		
Title	:	RECLOSABLE PAPERBOARD CLOSURE		
Docket No.	:	16695.089175		
Customer No.	:	27526		

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PRELIMINARY AMENDMENT**

Sir:

In response to the Final Office Action mailed January 11, 2006, entry of the accompanying Request for Continued Examination and the following preliminary amendment is respectfully requested.

**Amendments to the Claims** are reflected in the listing of claims which begin on page 2 of this document.

**Remarks/Arguments** begin on page 6 of this document.

**Amendments to the Claims:**

This listing of claims will replace all prior revisions, and listings, of claims in the application.

**Listing of Claims:**

1. (withdrawn) A reclosable container comprising:  
a container body having at least one defining an upper opening;  
a disc having an aperture, wherein the shape of said disc is defined by said upper opening, and wherein said disc is located in said upper opening;  
a tab, said tab extending across said aperture and including a connecting portion, wherein said tab is removably coupled to said disc at the periphery of said aperture, and wherein said connecting portion of said tab is permanently coupled to said disc, and wherein a lip portion of said is bent inward and over so as to provide a locking mechanism for said tab when said tab is in a
2. (withdrawn) The container of claim 1 wherein said disc and said tab are made of paper material.
3. (withdrawn) The container of claim 1 wherein a heat seal is used to couple said tab to said disc at the periphery of said aperture.
4. (withdrawn) The container of claim 3 wherein said periphery of said aperture is kiss cut before said heat seal is applied.
5. (withdrawn) The container of claim 3 wherein when said tab is initially opened fibers tear at the point of adhesion of said tab to said disc.

6. (withdrawn) The container of claim 3 wherein when said tab is initially opened a portion of said tab is torn away.

7. (withdrawn) The container of claim 1 wherein a cohesive bond is used to couple said tab to said disc at the periphery of said aperture.

8. (withdrawn) The container of claim 7 wherein said tab further including a perforated section defined by a plurality of perforations and located at the area of said tab that is bonded to said disc at the periphery of said aperture.

9. (withdrawn) The container of claim 1 wherein said tab includes a grip portion that is operable to assist in opening said tab.

10. (currently amended) A tamper-evident, reclosable closure for dispensing consumer items from a container, comprising:

a disc having an aperture;

a tab extending across said aperture, said tab having a connecting portion coupled to said disc, said tab adhered to said disc at the periphery of said aperture by an adhesive that will repeatably adhere said tab to said disc, wherein said disc displays evidence of having been separated after the first separation;

a grip portion coupled to said tab; and

a locking section for maintaining said tab in a closed position, said tab including at least one perforated section defined by a plurality of perforations and located at the area of said tab that is adhered to said disc at the periphery of said aperture.

11. (original) The closure of claim 10, wherein said disc and said tab are constructed of paper products.

12. (original) The closure of claim 10 wherein said evidence of tampering is tom fibers coupled to said tab.

13. (original) The closure of claim 10 wherein said evidence of tampering is fibers torn from said tab.

14. (canceled)

15. (original) The closure of claim 14 wherein said evidence of tampering is that said at least one perforation section is torn from said tab.

16. (currently amended) A reclosable container comprising:

a container body having at least one defining an upper opening,

a disc, said disc having an aperture, wherein said upper opening defines the shape of said disc;

a tab, said tab extending across said aperture, said tab adhered to said disc at the periphery of said aperture; and

said sidewall including a locking section for maintaining said tab section in a closed position;

wherein said tab includes at least one perforated section defined by a plurality of perforations and located at the area of said tab that is adhered to said disc at the periphery of said aperture.

17. (original) The container of claim 16 wherein said locking section includes a portion of said overlapping a portion of said disc.

18. (original) The container of claim 16 further comprising a grip portion coupled to said tab.

19. (original) The container of claim 16 wherein said tab is partially separable from said disc.

20. (original) The container of claim 16 wherein said tab includes a connecting portion that is permanently coupled to said container.

## **REMARKS/ARGUMENTS**

Responsive to the Final Office Action dated January 11, 2006, Claims 10 and 16 have been amended, Claim 14 has been canceled and Claims 1-9 were previously withdrawn. Accordingly, Claims 10-13 and 15-20 remain pending with Claims 10 and 16 being independent.

### **I. 35 U.S.C. § 102 Rejection**

Claims 10-13 and 16-20 have been rejected under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 2,719,663 to Meyer-Jagenberg. Independent Claims 10 and 16 have been amended to include the limitations of Claim 14 which claim was subject to this rejection. Applicant therefore respectfully submits that this amendment has rendered the present rejection moot and requests withdrawal of the same.

### **II. 35 U.S.C. § 103 Rejections**

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claim combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

#### *A. Rejection of Claims 10-12, and 16-20 over Meyer-Jagenberg '151 in view of either Barnes or Johnson*

Claims 10, 11, 12, and 16-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,847,151 to Meyer-Jagenberg in view of either U.S. Patent No. 2,896,839 to Barnes et al. or U.S. Patent No. 3,768,719 to Johnson. Independent Claims 10

and 16 have been amended to include the limitations of Claim 14 which claim was subject to this rejection. Applicant therefore respectfully submits that this amendment has rendered the present rejection moot and requests withdrawal of the same.

*B. Rejection of Claims 14-15 over Meyer-Jagenberg in view of either Barnes or Johnson and further in view of Schmidt*

Claims 14 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Meyer-Jagenberg '151 rejection, as set forth above, and further in view of U.S. Patent No. 6,082,614 to Schmidt. For the following reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

It is admitted in the Office Action that Mayer-Jagenberg '151 fails to teach or suggest a tab including at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. It is asserted that it would have been obvious to one of ordinary skill in the art to provide Schmidt's perforation in the tab in the combination of Meyer-Jagenberg to provide added security. Applicant respectfully traverses this assertion. Schmidt does not teach or suggest a tab having at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Rather, Schmidt teaches only that, upon pulling tab 5 upward, pull-up window 4 will be torn along the tearing perforation 9 and away from the basic surface area 3c up to the scoring 4d as shown in Fig. 1 of Schmidt. Schmidt's perforations are located in the middle of the lid not located at the area of the tab that is adhered to the disc at the periphery of the aperture as claimed by Applicant.

Prima facie obviousness requires that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in

the art, to modify the reference or combine reference teachings. No such suggestion or motivation exists in Meyer-Jagenberg or Schmidt, alone or in combination, to provide a tab including at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Moreover, there is no expectation of success when Meyer-Jagenberg and Schmidt are combined in that their combination would not result in a working reclosable paperboard closure similar to that of Applicant. Finally, the prior art references, when combined, must teach or suggest all the claim limitations. As discussed above, neither of the cited references teach or suggest a tab including at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Thus, neither of the cited references teach or suggest all of the elements of Applicant's independent Claim 10, as amended. Unless all the elements are taught by the references, there can be no success in modifying them.

Thus, at the time the present invention was made, neither of the cited references teach or describe all of the limitations claimed by Applicant in independent Claim 10. It would therefore not have been obvious to one of ordinary skill in the art to provide a tamper-evident, reclosable closure for dispensing consumer items from a container including a tab having at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Accordingly, independent Claim 10 and the claims that depend therefrom are nonobvious under § 103(a).

*C. Rejection of Claims 10-20 over Negoro in view of either Barnes or Johnson*

Claims 10-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,926,832 to Negoro in view of either Barnes et al. or Johnson. For the



following reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Negoro does not teach or suggest the present invention as claimed. In particular, Negoro fails to teach or suggest a container having a tab with at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Similarly, both Barnes and Johnson fail to teach or suggest this element of Applicant's independent Claims 10 and 16.

Prima facie obviousness requires that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. No such suggestion or motivation exists in Negoro, Barnes or Johnson, alone or in combination, to provide a tab including at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Moreover, there is no expectation of success when Negoro, Barnes or Johnson are combined in that their combination would not result in a working reclosable paperboard closure similar to that of Applicant. Finally, the prior art references, when combined, must teach or suggest all the claim limitations. As discussed above, none of the cited references teach or suggest a tab including at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Thus, none of the cited references teach or suggest all of the elements of Applicant's independent Claims 10 and 16, as amended. Unless all the elements are taught by the references, there can be no success in modifying them.

Thus, at the time the present invention was made, none of the cited references teach or describe all of the limitations claimed by Applicant in independent Claims 10 and 16. It would

therefore not have been obvious to one of ordinary skill in the art to provide a tamper-evident, reclosable closure for dispensing consumer items from a container including a tab having at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Accordingly, Claims 10-20 are nonobvious under § 103(a).

*D. Rejection of Claims 10-20 over Negoro in view of either Barnes or Johnson and further in view of Kuchler*

Claims 10-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,926,832 to Negoro, as set forth above, and further in view of U.S. Patent No. 2,858,060 to Kuchler. For the following reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Negoro does not teach or suggest the present invention as claimed. In particular, Negoro fails to teach or suggest a container having a tab with at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Similarly, Kuchler also fail to teach or suggest this element of Applicant's independent Claims 10 and 16.

Prima facie obviousness requires that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. No such suggestion or motivation exists in Negoro or Kuchler, alone or in combination, to provide a tab including at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Moreover, there is no expectation of success when Negoro and Kuchler are combined in that their combination would not result in

a working reclosable paperboard closure similar to that of Applicant. Finally, the prior art references, when combined, must teach or suggest all the claim limitations. As discussed above, neither of the cited references teach or suggest a tab including at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Thus, neither of the cited references teach or suggest all of the elements of Applicant's independent Claims 10 and 16, as amended. Unless all the elements are taught by the references, there can be no success in modifying them.

Thus, at the time the present invention was made, neither of the cited references teach or describe all of the limitations claimed by Applicant in independent Claims 10 and 16. It would therefore not have been obvious to one of ordinary skill in the art to provide a tamper-evident, reclosable closure for dispensing consumer items from a container including a tab having at least one perforated section defined by a plurality of perforations and located at the area of the tab that is adhered to the disc at the periphery of the aperture. Accordingly, Claims 10-20 are nonobvious under § 103(a).

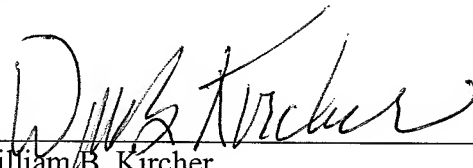
### **III. Conclusion**

Applicant respectfully submits the claims are in condition for formal allowance and such is courteously solicited. If any issue regarding the allowability of any of the pending claims in the present application could be readily resolved, or if other action could be taken to further advance this application such as an Examiner's amendment, or if the Examiner should have any questions regarding the present amendment, it is respectfully requested that the Examiner please telephone Applicant's undersigned attorney in this regard. Should any fees be necessitated by this response, the Commissioner is hereby authorized to deduct such fees from Deposit Account No. 11-0160.

Respectfully submitted,

Date: \_\_\_\_\_

4/11/2006

A handwritten signature in cursive script, appearing to read "William B. Kircher", written over a horizontal line.

William B. Kircher

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